

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

JESUS QUINTANA ALMANZA

PLAINTIFF

v.

Civil No. 06-2009

SHERIFF FRANK ATKINSON; MIKE
CONGER, Jail Administrator; and NURSE
CRYSTAL REED

DEFENDANTS

ORDER

On July 3, 2006, defendants filed a summary judgment motion (Doc. 19). To assist plaintiff in responding to the summary judgment motion, the undersigned is propounding a questionnaire. The court will consider plaintiff's response to the questionnaire in issuing a report and recommendation on the summary judgment motion.

For this reason, Jesus Quintana Almanza is hereby directed to complete, sign, and return the attached response to defendants' summary judgment motion on or before **August 28, 2006**. **Plaintiff's failure to respond within the required period of time may subject this matter to dismissal for failure to comply with a court order.**

IT IS SO ORDERED this 27th day of July 2006.

/s/ Beverly Stites Jones
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

JESUS QUINTANA ALMANZA

PLAINTIFF

v.

Civil No. 06-2009

SHERIFF FRANK ATKINSON; MIKE
CONGER, Jail Administrator; and NURSE
CRYSTAL REED

DEFENDANTS

RESPONSE TO SUMMARY JUDGMENT MOTION

TO: JESUS QUINTANA ALMANZA

These questions and answers will serve as your response to defendants' motion for summary judgment. You may use additional sheets of paper in responding to these questions. You must file this response by **August 28, 2006**.

1. You were booked into the Sebastian County Detention Center (SCDC) on March 22, 2005, on charges of possession of methamphetamine with intent to deliver, simultaneous possession of drugs and firearms, endangering the welfare of a minor, and possession of cocaine with intent to deliver.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 1.

2. On March 22, 2005, you were placed on an immigration detainer by the Department of Justice pending an investigation to determine if you should be removed from the country.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 2.

3. On April 21, 2005, you submitted a request for medical care. You indicated your toe nail had come off and it was hurting. You asked to have the nurse look at it.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 17.

4. You were seen by Nurse Collier that day. She noted you appeared to have a fungus on your right toenail and had cut your left toenail too short. She gave you antifungal cream for your right toe and "TAO" for your left toe.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 18.

5. On June 29, 2005, you were tested for Tuberculosis (TB) by the Arkansas Department of Health. No signs of TB were noted but you were given a preventative prescription.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 21.

6. On July 20, 2005, Nurse Reed completed a form indicating you were medically able to travel by bus, van, car, or plane and able to stay overnight at another facility.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 22.

7. On August 3, 2005, you were sent to the Health Department for a TB follow-up.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 23.

8. On September 6, 2005, you complained of left kidney pain and were seen by Nurse Reed. She noted your urine was clear yellow. She told you to drink more fluids. The Health Department was notified because you were on isoniazid (INH). Nurse Reed noted that if the problem continued you would need to be seen by the doctor.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 24.

9. On September 9, 2005, you submitted a medical request. You stated you had been drinking a lot of water but it felt like your left kidney was hurting. You stated you were having problems urinating.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 26.

10. On September 12, 2005, the nurse saw you and noted that you needed a follow up with the doctor that week.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 26 and page 27.

11. On September 15, 2005, you were seen by Dr. Tinsman and Nurse Reed. Dr. Tinsman diagnosed you with left flank pain and ordered a CT of your abdomen and stated he would recheck you at a later date.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 28 & page 31.

12. You were transported to St. Edward Mercy Medical Center that same day. A CT scan was done of your abdomen and pelvis. No bladder calculus, distal urethral calculus, or urinary tract obstructive change was found.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 30.

13. On September 23, 2005, you requested medical care again. You stated you had been waiting for something since you had been to the hospital. You stated the pain had only gone for a little bit and you still could not urinate. You stated you were wondering if they were going to help or not.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 32.

14. Nurse Reed examined you that same day. She noted you had provided a urine sample previously and your CT scan showed no obstruction. You were moved to a hospital cell for observation. If your illness worsened, you were to be taken to the emergency room. Otherwise, you were to be seen by Dr. Tinsman.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page

33.

15. From September 23rd to September 29th you were observed in the hospital cell.

No problems were noted.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page

34.

16. During the time you were in the hospital cell, did you have any problems
urinating or were you in pain?

Answer: Yes _____ No _____.

If you answered yes, please describe the problems you were having and indicate if you reported the problems to the jailers or to the nurse.

17(A). On September 29, 2005, you were seen by Dr. Tinsman. He diagnosed you with chronic urinary retention and referred you to a urologist for a cystoscopy.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 35 and page 38.

(B). That same day, Nurse Reed made an appointment for you to be seen by a

urologist on October 25th.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 36.

18. You were seen by a urologist, Dr. Wannan, on October 25, 2005, and prescribed Bactrim.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 40 and page 41.

19. You submitted a medical request on October 25, 2005, in which you stated you

were having the same problem as before—trouble urinating and back problems. You also stated you had an eye irritation.

(A). Did you submit this request before you were seen by Dr. Wannan that day?

Answer: Yes _____ No _____.

If you answered no, please explain why you submitted the request after you were seen by Dr. Wannan.

(B). Were the back problems related to the problems you were having urinating?

Answer: Yes _____ No _____.

If you answered no, please state: (a) whether you had submitted any medical requests about your back problems; (b) whether you had received any treatment; and (c) what treatment you received. If you submitted requests, please attach copies of those requests to this response.

(C). Did you receive any treatment for the eye irritation?

Answer: Yes _____ No _____.

If you answered yes, please state what treatment you received.

If you answered no, please state why you didn't submit another medical request.

20. On November 8, 2005, you submitted a medical request stating that you had a bladder infection and were supposed to be taking medication. You indicated you had not received any medication for four days. You indicated you did not feel any change.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 45.

21. In response, on November 9th, Nurse Collier stated the prescription had only been for a few days of medication and there was no medication left. She indicated she would call the urologist. Nurse Collier called the urologist and they called in another prescription.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 45 and page 46.

22. On November 10, 2005, Nurse Collier indicated you were able to travel by bus, van, car, or plane and were able to stay overnight at another facility.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 49.

23. On December 22, 2005, you requested medical care. You stated the medication you were receiving was not helping you. You requested the right medication. You stated you had already told the nurse about your fall and nothing had been done. You stated you hit your collar bone. You also requested drops for your eyes. You stated you had been sprayed with pepper spray although you were not involved in the incident.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 52.

24. On December 22, 2005, you were placed on a 24 hour medical watch due to complaint that you were in pain. The log was kept and turned into the nurse after 24 hours. You showed no signs of pain, carried your trays, ate, exercised, watched TV, showered, walked around the pod, and generally seemed fine.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 53.

25. On December 23, 2005, you were seen by Nurse Reed. You told her you were still having urinary tract problems. Nurse Reed informed you that you were no longer under the United States Marshal Service and would be responsible for your own medical. You told Nurse Reed you still wanted to see the doctor. Nurse Reed stated she would arrange for you to see Dr. Tinsman. She did not notice any problems that needed emergency medical treatment.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 54.

26. Did you see Dr. Tinsman following your December 23rd request?

Answer: Yes _____ No _____.

If you answered yes, please state what treatment you received.

If you answered no, please state if you received treatment from any medical personnel.

27. On January 10, 2006, Nurse Reed told you to have your family arrange a follow-up visit with the urologist you saw before. Nurse Reed stated they might have to pre-pay. The doctor's office was then supposed to call the nurse and tell her when the appointment was.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 56 and page 57.

28. Did you have your family set up an appointment with Dr. Wannan?

Answer: Yes _____ No _____.

If you answered no, please explain why you did not have your family set the appointment up.

29. On February 6, 2006, you were sentenced to thirty years.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 58.

30(A). On February 17, 2006, you were seen by Nurse Reed. You stated you were having problems urinating and having a hard time sitting down. When Nurse Reed asked you about that, you said you had told her about it before and she hadn't done anything. Nurse Reed replied that you had been seen by Dr. Tinsman and a urologist.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page

64.

(B). Nurse Reed reminded you that there was a statement on the medical form about indigents and that you needed to let her know that. You told her you didn't understand the statement about indigents but wanted to see the doctor now.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page

65.

(C). You told Nurse Reed you had hurt your tail bone in May or June and had constipation issues with it. You indicated your urinary problem might also be related. You told Nurse Reed you had some dizziness and eye problems since being maced.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page

65.

(D). You also complained because you did not receive your medication correctly.

Nurse Reed explained the medication is sent to the pod and handed out at med times.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page
65.

(E). Nurse Reed noted no deformity to your eyes and your blood pressure and pulse
were within normal limits.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page
65.

(F). She stated she would arrange for you to see Dr. Tinsman.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 65.

31. On February 21, 2006, you were seen by Nurse Reed. You told her you put in a request about your injury three weeks after it happened but not at the time of the injury. You were upset because you believed you were being denied medical attention. Nurse Reed told you that you were not being denied medical attention and needed to tell her what was wrong. Nurse Reed noted you had the same complaints as the last time you were in the office and indicated you were still dizzy.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 66.

32. Nurse Reed stated you could have a laxative and Ibuprofen for the pain. She stated she could not find any reports of your having been injured.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 66.

33(A). She stated Dr. Tinsman had suggested the over the counter medication and stated you needed to follow-up with urology and that someone in your family would have to prearrange that. You told Nurse Reed you wanted to talk to the doctor only.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 67.

(B). You asked if the INH you were on could cause your problems. Nurse Reed called the health department and was told that your symptoms did not match and they hadn't had any reports of ill effects from the medication.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 67.

(C). Nurse Reed indicated she would talk to Dr. Tinsman about your situation and also talk to the jail administration about your medical. She noted you wanted the jail to pay for your visit to the urologist since you had no one to arrange an appointment for you.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 67.

34. Nurse Reed spoke with Captain Conger and was told you would have to have your family arrange the appointment with the urologist.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 69.

35. On February 28, 2006, you requested medical care. You stated you had already described your problems. You indicated it had been two weeks since you were told you would see a doctor. You stated you still hadn't been told when you would be seen.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 72.

36. On February 28, 2006, you were seen by Dr. Tinsman. He ordered an x-ray of

your coccyx (tailbone). You were diagnosed with a coccygeal contusion with neurological contusion. You were advised to increase your fiber intake and fibercon was prescribed.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 70 and page 71.

37. On March 2, 2006, you were taken to St. Edwards Mercy Medical Center and your sacrum and coccyx were x-rayed. No acute fracture or destructive lesion was evident.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 74.

38. On March 2, 2006, you returned from x-ray and wanted to know why you had to pay for it. Nurse Reed explained that there was only a detainer on you from the United States Marshal Service and the Arkansas Department of Correction hadn't put you on a list to pay for your medical yet.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 73.

39. Nurse Reed asked jail administration to check why you were not on the ADC list for the ADC to pay for your medical since you had been sentenced on February 6, 2006.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 73.

40. On March 14, 2006, you were seen by Dr. Tinsman for a follow-up about your x-

ray. He noted you had a coccyx contusion and recommended stretching.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at page 75 and page 76.

41. On March 22, 2006, you were transferred to the ADC.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

42. You received all medication prescribed for you by medical personnel while you were at the SCDC.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 1 at pages 77 to 87.

43. Upon intake to the ADC, you reported urinary problems and problems with constipation.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 2 at page 10.

44. You were referred to a doctor and given fiber tablets.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain. In explaining, please refer to defendants' exhibit 2 at page 16.

45. While at the SCDC, you were seen by Dr. Tinsman and Nurse Reed even when you did not have money to pay for their services.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

46. Since you have been at the ADC, have you continued to have problems with urination?

Answer: Yes _____ No _____.

If you answered yes, please describe the problems you have had and indicate what type of treatment you have received.

47. Since you have been at the ADC, have you continued to have problems with your eyes and with the feeling of dizziness?

Answer: Yes _____ No _____.

If you answered yes, please describe the problems you have had and indicate what type of treatment you have received.

48. Do you contend Nurse Reed was deliberately indifferent to your serious medical needs?

Answer: Yes _____ No _____.

If you answered yes, please describe: (a) your serious medical needs; and (b) how she

exhibited deliberate indifference to your serious medical needs.

49. While you were at the SCDC, all decisions about your medical care, including whether you should be sent to the hospital or to another doctor, were made by the jail medical personnel, Nurse Reed, Nurse Collins, or Dr. Tinsman.

Agree _____ Disagree _____ Without knowledge to agree or disagree _____.

If you disagree, explain.

50. You received all medical care Dr. Tinsman, Nurse Reed, and Nurse Collier believed, in the exercise of their medical judgment, that you needed.

Agree_____ Disagree_____ Without knowledge to agree or disagree_____.

If you disagree, explain.

51. Did Sheriff Atkinson personally make any decisions about your medical care?

Answer: Yes _____ No _____.

If you answered yes, please indicate what decisions Sheriff Atkinson made.

If you answered no, please state how you believe Sheriff Atkinson violated your

federal constitutional rights.

52. Did Captain Conger personally make any decisions regarding your medical care?

Answer: Yes _____ No _____.

If you answered yes, please state what medical decisions Captain Conger made.

If you answered no, please state how you believe Captain Conger violated your federal constitutional rights.

53. Did you suffer any physical injury as a result in there being a delay in your getting medical care while you were at the SCDC?

Answer: Yes _____ No _____.

If you answered yes, please describe: (a) the physical injuries you suffered; (b) the symptoms you experienced; (c) the severity of those symptoms; (d) whether you sought, or received, medical care as a result of those symptoms; and (e) how long it took you to recover from the injuries.

[illegible]

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
TRUE AND CORRECT.

EXECUTED ON THIS _____ DAY OF _____ 2006.

JESUS QUINTANA ALMANZA